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Antonio Lopez, Johanna Lopez, & S.L. by and through his guardian ad litem

Rocio Flores

**UNITED STATE DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANTONIO LOPEZ, individually;
JOHANNA LOPEZ, individually;
M.R., by and through his guardian ad
litem, April Rodriguez, individually
and as successor in interest to
Brandon Lopez; B.L. and J.L., by and
through their guardian ad litem
Rachel Perez, individually and as
successors in interest to Brandon
Lopez; S.L., by and through his
guardian ad litem, Rocio Flores,
individually and as successor in
interest to Brandon Lopez,

Plaintiff,

vs.

Case No.: 8:22-cv-01351-JVS-ADS

*(Honorable James V. Selna; Magistrate
Judge Autumn D. Spaeth)*

**PLAINTIFFS' STATEMENT OF
EVIDENTIARY OBJECTIONS IN
SUPPORT OF THEIR OPPOSITION
TO DEFENDANTS' MOTION FOR
SUMMARY JUDGEMENT**

*(Filed concurrently with Plaintiffs'
Opposition to Defendants' Motion for
Summary Judgement; Plaintiffs Statement*

Case No. CU0000079

**PLAINTIFFS' OBJECTIONS TO EVIDENCE IN SUPPORT OF PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE SUMMARY
ADJUDICATION**

CITY OF ANAHEIM, a municipal corporation; CITY OF SANTA ANA, a municipal corporation; DAVID VALENTIN, individually and in his official capacity as the Chief of Police for the CITY OF SANTA ANA Police Department; JORGE CISNEROS, individually and in his official capacity as the Chief of Police for the CITY OF ANAHEIM Police Department; PAUL DELGADO, individually and in his official capacity as an officer for the CITY OF ANAHEIM Police Department; BRETT HEITMAN; KENNETH WEBER, individually and in his official capacity as an officer for the CITY OF ANAHEIM Police Department; BRETT HEITMAN; CAITLIN PANOV, individually and in her official capacity as an officer for the CITY OF ANAHEIM Police Department; BRETT HEITMAN, individually and in his official capacity as an officer for the CITY OF ANAHEIM Police Department; BRETT HEITMAN; DOES 1-10, individually and in their official capacity as law enforcement officers for the CITY OF ANAHEIM Police Department and CITY OF SANTA ANA Police Department,,

Defendants.

of Additional Material Facts; Plaintiffs' Statement of Genuine Disputes of Material Fact; Declaration of Lena P. Andrews and attached Exhibits)

Date: August 12, 2024

Time: 1:30 p.m.

Crtrm.: 10C

FPTC Date: September 9, 2024

Trial Date: September 17, 2024

	Defendants' Evidence	Grounds for Objection
1		
2	1 Exh. 1, Composite Video	FRE 403 – cumulative and unduly prejudicial.
3		FRE 801, 802.
4		FRE 1002 as to the transcript.
5		Fed. R. Civ. P Rule 37(c)(1); <i>Algaier</i>
6		<i>v. Bank of America</i> , N.A., 2015 WL
7		5944177 at *6-7 (excluding five
8		exhibits submitted in support of the
9		plaintiff's opposition to summary
10		judgment because the exhibits were
11		not produced in discovery in violation
12		of Rule 37, and there was no
13		substantial justification for doing so);
14		<i>Chisolm v. 7-Eleven, Inc.</i> , 383
15		F.Supp.3d 1032, 1044-45 (S.D. Cal.
16		2019) (excluding email submitted by
17		the plaintiff in support of opposition
18		to motion for summary judgment
19		since the email was not produced in
20		discovery, and failure to produce was
21		not justified).
22	2 Exh. 2, Audio Interview of	FRE 403 – cumulative and unduly
23	Anaheim Police Investigator Ricky	prejudicial.
24	Reynoso ("Reynoso Interview")	FRE 701.
25	Exh. 19, Transcript of Interview of	FRE 801, 802.
26	Anaheim Police Investigator Ricky	FRE 1002 as to the transcript.
27	Reynoso ("Reynoso Interview	Fed. R. Civ. P Rule 37(c)(1) <i>Algaier</i>
	Transcript").	<i>v. Bank of America</i> , N.A., 2015 WL
		5944177 at *6-7 (excluding five
		exhibits submitted in support of the
		plaintiff's opposition to summary

1		judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified)..
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10	3	Exh. 3, Audio Interview of Santa Ana Police Department Officer Kenny Aguilar (“Aguilar Interview”)
11		FRE 403 – cumulative and unduly prejudicial.
12		FRE 701.
13		FRE 801, 802.
14		FRE 1002 as to the transcript.
15		FRE 1002 as to the transcript.
16		FRE 1002 as to the transcript.
17		FRE 1002 as to the transcript.
18		FRE 1002 as to the transcript.
19		FRE 1002 as to the transcript.
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24		FRE 1002 as to the transcript.
25		FRE 1002 as to the transcript.
26		FRE 1002 as to the transcript.
27		FRE 1002 as to the transcript.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	4	<p>Exh. 15, Audio Interview of Defendant Sergeant Paul Delgado (“Delgado Interview”)</p> <p>Exh. 21, Transcript of Audio Interview of Defendant Sergeant Paul Delgado (“Delgado Interview Transcript”)</p>	<p>FRE 403 – cumulative and unduly prejudicial.</p> <p>FRE 701.</p> <p>FRE 801, 802.</p> <p>FRE 1002 as to the transcript.</p> <p>Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i>, N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i>, 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).</p>
18 19 20 21 22 23 24 25 26 27	5	<p>Exh. 5, Audio Interview of Defendant Sergeant Kenneth Weber (“Weber Interview”)</p> <p>Exh. 22, Transcript of Audio Interview of Defendant Sergeant Kenneth Weber (“Weber Interview Transcript”)</p>	<p>FRE 403 – cumulative and unduly prejudicial.</p> <p>FRE 701.</p> <p>FRE 801, 802.</p> <p>FRE 1002 as to the transcript.</p> <p>Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i>, N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary</p>

		judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).
6	Exh. 14, Audio Interview of Defendant Officer Catalin Panov ("Panov Interview") Transcript of Audio Interview of Defendant Officer Catalin Panov ("Panov Interview Transcript")	FRE 403 – cumulative and unduly prejudicial. FRE 701. FRE 801, 802. FRE 1002 as to the transcript. Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i> , N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff's opposition to summary judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).
7	Exh. 6, Audio Interview of Santa Ana Police Department Officer	FRE 403 – cumulative and unduly prejudicial.

1	Sergio Martinez (“Martinez Interview”)	FRE 701.
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3	Exh. 24, Transcript of Interview of Santa Ana Police Department Officer Sergio Martinez (“Martinez Interview Transcript”)	FRE 801, 802.
4		FRE 1002 as to the transcript.
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6		Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i> , N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).
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17	8 Exh. 7, Audio Interview of Santa Ana Police Department Corporal Luis Galeana (“Galeana Interview”)	FRE 403 – cumulative and unduly prejudicial.
18		FRE 701.
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20	Exh. 25, Transcript of Interview of Santa Ana Police Department Corporal Luis Galeana (“Galeana Interview Transcript”)	FRE 801, 802.
21		FRE 1002 as to the transcript.
22		
23		Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i> , N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary judgment because the exhibits were not produced in discovery in violation
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		of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).
9	Exh. 13, Audio Interview of Defendant Officer Brett Heitman (“Heitman Interview”) Exh. 26, Transcript of Interview of Defendant Officer Brett Heitman (“Heitman Interview Transcript”)	FRE 403 – cumulative and unduly prejudicial. FRE 701. FRE 801, 802. FRE 1002 as to the transcript. Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i> , N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).
10	Exh. 9, Audio Interview of Anaheim Police Officer Brandon Mullins (“Mullins Interview”)	FRE 403 – cumulative and unduly prejudicial. FRE 701.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Exh. 27, Transcript of Interview of Anaheim Police Officer Brandon Mullins (“Mullins Interview Transcript”)	FRE 801, 802. FRE 1002 as to the transcript. Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i> , N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).
16 17 18 19 20 21 22 23 24 25 26 27	11 Exh. 8, Audio Interview of Santa Ana Police Officer Nelson Menendez (“Menendez Interview”) Exh. 28, Transcript of Interview of Santa Ana Police Officer Nelson Menendez (“Officer Menendez Interview Transcript”)	FRE 403 – cumulative and unduly prejudicial. FRE 701. FRE 801, 802. FRE 1002 as to the transcript. Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i> , N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so);

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		<i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).
12	Exh. 10, Audio Interview of Anaheim Police Officer James Lopez (“Officer Lopez Interview”) Exh. 29, Transcript of Interview of Anaheim Police Officer James Lopez (“Officer Lopez Interview Transcript”)	FRE 403 – cumulative and unduly prejudicial. FRE 701. FRE 801, 802. FRE 1002 as to the transcript. Fed. R. Civ. P Rule 37(c)(1), <i>Algaier v. Bank of America</i> , N.A., 2015 WL 5944177 at *6-7 (excluding five exhibits submitted in support of the plaintiff’s opposition to summary judgment because the exhibits were not produced in discovery in violation of Rule 37, and there was no substantial justification for doing so); <i>Chisolm v. 7-Eleven, Inc.</i> , 383 F.Supp.3d 1032, 1044-45 (S.D. Cal. 2019) (excluding email submitted by the plaintiff in support of opposition to motion for summary judgment since the email was not produced in discovery, and failure to produce was not justified).

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1 Dated: July 22, 2024

BURRIS, NISENBAUM, CURRY & LACY LLP

2 By: /s/ Lena Andrews

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10 Rocio Flores